

**In The  
Indiana Supreme Court**

<b>IN THE MATTER OF</b>	)	
<b>PROPOSED LOCAL RULE</b>	)	<b>CASE NO.</b>
<b>AMENDMENTS</b>	)	
<b>FOR COURTS OF RECORD OF</b>	)	
<b>ELKHART COUNTY</b>	)	

**NOTICE OF PROPOSED LOCAL RULE AMENDMENTS,  
FINDING OF GOOD CAUSE TO DEVIATE FROM THE SCHEDULE  
FOR AMENDING RULES, AND REQUEST FOR SUPREME COURT APPROVAL**

The Judges of Elkhart County Courts give Notice under Trial Rule 81(B) of proposed amendments to their local court rules, find good cause to deviate from the schedule for amending local court rules under Trial Rule 81(D), and request Supreme Court approval for the amendment to their caseload allocation plan at **LR 20-AR1E-19** pursuant to Administrative Rule 1(E).

Proposed new language is indicated by underlining and proposed deleted language is indicated by striking through.

Comments may be made to Elkhart Superior Court Judge Evan S. Roberts at Elkhart Superior Court No. 1, 315 South 2<sup>nd</sup> Street, Elkhart, IN 46516 or by email at [lkrieger@elkhartcounty.com](mailto:lkrieger@elkhartcounty.com) and will be received until **October 15, 2010**.

The amendments will be effective on **January 1, 2011**.

Dated this 3rd day of September, 2010.

\_\_\_\_\_/S/\_\_\_\_\_  
Terry C. Shewmaker, Judge  
Elkhart Circuit Court

\_\_\_\_\_/S/\_\_\_\_\_  
Evan S. Roberts, Judge  
Elkhart Superior Court #1

\_\_\_\_\_/S/\_\_\_\_\_  
Stephen R. Bowers, Judge  
Elkhart Superior Court #2

\_\_\_\_\_/S/\_\_\_\_\_  
Charles C. Wicks, Judge  
Elkhart Superior Court #5

\_\_\_\_\_/S/\_\_\_\_\_  
George W. Biddlecome, Judge  
Elkhart Superior Court #3

\_\_\_\_\_/S/\_\_\_\_\_  
Olga H. Stickel, Judge  
Elkhart Superior Court #4

\_\_\_\_\_/S/\_\_\_\_\_  
David C. Bonfiglio, Judge  
Elkhart Superior Court #6

## **LR20-TR00-NAFD RULE 4.5 FACSIMILE ELECTRONIC FILINGS**

**No facsimile filings are allowed except with the express prior approval of the Court. If approval is granted, the filing shall be made to the number designated by the Court and the party making the filing shall otherwise comply with Administrative Rule 12. Initial filing of a cause of action by facsimile is not permitted.**

## **LR20-TR00-CVSB-12 SURETY ON BONDS**

**(A)** No attorney, employee or other officer of the Court shall be accepted as surety on bonds in criminal, civil or probate matters.

**(B)** The Court will require a bond in an amount sufficient to cover all liquid assets of all estates, trusts and guardianships. If any non-liquid assets (such as real estate) become liquid, the bond shall immediately be increased in an amount to cover the additional liquid asset. The bond shall also be in an amount to protect two (2) times the annual income. The bond may be waived in an estate only if a sole heir is also the personal representative and as heir files a waiver of bond or if all adult competent heirs file a waiver of bond, and in a guardianship if the minor's account cannot be withdrawn except by Court order. When two or more persons are appointed personal representative or co-guardians, they may file a joint surety.

**The following procedures shall be in effect for all persons whose appearance is required in the various courts situate within the County of Elkhart, State of Indiana:**

### **(C) ORDER ON APPEARANCE OF CRIMINAL DEFENDANTS AND THE SETTING OF BAIL IN CRIMINAL CASES**

#### **1. No Bail Requirement**

If a Court has not established bail in a particular case, no bail shall be set for the following offenses until such time as the person arrested has been brought before a neutral and detached Judge or Magistrate within the County of Elkhart, State of Indiana:

- a. all offenses if the offender is on probation
- b. all felonies
- c. all misdemeanors involving possession or delivery of a firearm as proscribed by I.C. § 35-47 et seq.
- d. all misdemeanors involving domestic battery as proscribed by I.C. §35-42-2-1.3
- e. all misdemeanors involving invasion of privacy as proscribed by I.C. §35-46-1-15.1
- f. all misdemeanors involving operating while intoxicated proscribed by I.C. §9-30-5 et seq.

2. Standard bail requirement for non-exempt misdemeanors and exceptions

A standard bail may be applied for non-exempt misdemeanors in the amount of one-thousand five hundred dollars (\$1,500.00) regardless of the number of misdemeanors cited by the arresting law enforcement officer. If the arresting law enforcement officer documents circumstances surrounding the offense which he believes warrant a different amount of bail, he or she may request the person be held without bail until such time as a neutral and detached Judge or Magistrate reviews said facts and set bail.

3. Consideration of Local Rule 13 for fixing amount of bail

Except as otherwise provided herein, or in applicable statute or rule, bail in felony and misdemeanor cases shall be fixed by the Judicial officer finding probable cause for the arrest of the defendant. In fixing the amount of bail in a give case, that judicial officer shall consider the Elkhart County Criminal Bail/Bond schedule, as embodied in LR20-CR00-CRBS Rule 13. Notwithstanding the foregoing, it is emphasized that such schedule is advisory in nature, and shall not be construed as limiting the authority of any judicial officer to fix bond in any amount which he or she deems to b e appropriate in any given cause.

4. Surety requirement

On all cases involving the posting of bail through a surety, a person shall not be released on bail until the bail bond agent certifies that he or she has verified that the information provided to the bail bond agent regarding identification and address of the person are accurate and reliable.

5. Notice regarding Initial Hearing

A person who has posted bail prior to his or her appearance in court for an Initial Hearing shall be informed of his or her Initial Hearing date, time and location, and that failure to appear as directed will result in a revocation of bail and the issuance of an arrest warrant for failure to appear.

6. Alcohol related charges

No bail shall be allowed for persons arrested on alcohol related charges if release of said person is otherwise prohibited by law (See I.C. §35-33-1-6)

7. Duty of recording bail information

All original documentation regarding the posting of bail shall be submitted to the Court where the particular offense is filed and the Clerk of the Court shall be responsible for entering the information on the Chronological Case Summary (CCS).

If criminal charges have not been filed, the original documentation regarding the posting of bail shall be submitted to the Court that docketts the finding of probable cause for the arrest and shall also be entered by the Clerk of the Court in the CCS.

The following Criminal Bail/Bond Schedule shall be in effect within the County of Elkhart, State of Indiana:

(A) Unless otherwise ordered by a court, bail on felony charges shall be as follows:

<u>FELONY CLASS</u>	<u>SUSPENDIBLE</u>	<u>NONSUSPENDIBLE</u>
A	\$150,000.00	\$150,000.00
B	75,000.00	75,000.00
C	5,000.00	10,000.00
D	3,000.00	5,000.00

<u>FELONY CLASS</u>	<u>SUSPENDIBLE</u>	<u>NONSUSPENDIBLE</u>
A	\$20,000.00	\$25,000.00
B	—10,000.00	—15,000.00
C	—5,000.00	—10,000.00
D	—3,000.00	—5,000.00

(B) Bail for any misdemeanor shall be \$1,500 per charge.

(C) This Bail/Bond Schedule is advisory. It shall be within the discretion of any court to set a bond which is higher or lower than that recommended by the schedule in any given case. Any bail setting shall be reviewable at the instance of any party.

~~G) — A court may fix a higher or lower bail. Any bail setting shall be reviewable upon motion of any party.~~

(D) Subject to court approval, a person charged with any class C or class D felony which does not involve the use or possession of a deadly weapon and for which the sentence would apparently be suspendible may be permitted to post with the Clerk of the Court a cash bond in the amount of 10% of the bail as set, provided that:

- 1) The person has close ties to the local community;
- 2) The person has not been convicted of an offense;
- 3) The person agrees to submit to supervision by the pretrial release officer;
- 4) The bond is posted in the name of the defendant; and
- 5) The bond shall disclose on its face that it is a personal asset of the defendant and may be subjected to payment-of court-imposed financial obligations.

**LR20 - AR1E - 19**      **CASELOAD ALLOCATION PLAN**

**One (1) full time Juvenile Magistrate**

**Two (2) full time Court Magistrates**

**One (1) part-time (.6) Title IV-D Court Commissioner**

**Total: 3.6 available**

**(Based Upon 2010 Projections Supplied by Indiana State Court Administration)**

	<b>NEED</b>	<b>ADJUSTMENT OF MAGISTRATE</b>	<b>HAVE (After</b>	<b>UTILIZATION (After Adjustment)</b>
CIRCUIT	3.49		2.01	1.74
SUPERIOR I	2.30		1.30	1.77
SUPERIOR II	1.68	- .54	1.01	1.66
SUPERIOR III	1.43	- .07	1.01	1.42
SUPERIOR IV	1.56		1.08	1.53
SUPERIOR V	1.73		1.15	1.50
SUPERIOR VI	3.78	+ .61	2.46	1.54